

NOT DESIGNATED FOR PUBLICATION

**ARKANSAS COURT OF APPEALS**

DIVISION II

No. CACR 07-833

STUART ALAN CASTLEBERRY  
APPELLANT

VS.

STATE OF ARKANSAS

APPELLEE

**Opinion Delivered** FEBRUARY 13, 2008

APPEAL FROM THE SALINE  
COUNTY CIRCUIT COURT,  
[NO. CR-06-369-2]

HONORABLE GRISHAM A.  
PHILLIPS, JUDGE

AFFIRMED

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**JOHN B. ROBBINS, Judge**

Appellant Stuart Castleberry was convicted of raping a male juvenile relative (DM). The case was heard by a Saline County Circuit Court jury, and appellant was sentenced to forty-five years in prison for this crime. Appellant argues on appeal that the trial court erred (1) by denying his motion for a directed verdict, and (2) by excluding evidence regarding a witness's credibility. We affirm the conviction.

As to the denial of the motions for a directed verdict, this is the means by which a defendant challenges the sufficiency of the evidence. *Cluck v. State*, 365 Ark. 166, 226 S.W.3d 780 (2006). In reviewing a challenge to the sufficiency of the evidence, we view the evidence in a light most favorable to the State and consider only the evidence that supports the verdict. *Id.* We affirm a conviction if substantial evidence exists to support it. *Id.*

Substantial evidence is that which is of sufficient force and character that it will, with reasonable certainty, compel a conclusion one way or the other, without resorting to speculation or conjecture. *Id.* With regard to a rape conviction, the testimony of a rape victim, standing by itself, constitutes sufficient evidence to support a conviction. *See, e.g., Hanlin v. State*, 356 Ark. 516, 157 S.W.3d 181 (2004), *Laughlin v. State*, 316 Ark. 489, 872 S.W.2d 848 (1994).

As charged in this case, the State had to prove to the jury that appellant had engaged in deviate sexual activity with another person who was less than fourteen years of age. Ark. Code Ann. § 5-14-103(a)(3)(2007). Deviate sexual activity is defined as any act of sexual gratification involving the penetration, however slight, of the anus or mouth of one person by the penis of another person. Ark. Code Ann. § 5-14-101(1)(A)(2007).

In this case, appellant was in his late thirties during the relevant period of time. Appellant is a cousin to DM's mother. Appellant said he had known DM his whole life and had treated him as if he were his own son. Appellant denied ever touching DM in an inappropriate manner. Appellant said he believed DM had a previous problem with drugs and was troubled because both his parents died. Appellant admittedly had a homosexual relationship with another male cousin, NB, but he claimed it was a consensual adult relationship and that NB was age eighteen at the time. Appellant agreed he and NB did sexual acts in DM's presence, but appellant believed DM was asleep. NB testified to the contrary, stating that appellant committed sexual acts against him when he was around age fifteen or sixteen, similar to that committed against DM.

DM was sixteen years old when he testified. DM testified that appellant had engaged in sexual acts with him over the course of several years, between his ages of ten and fourteen. It began with appellant performing oral sex on DM, which appellant told DM was “normal” behavior for them. As DM got older, appellant plied DM by giving DM marijuana, pipes and bongs, cocaine, narcotics, alcohol, cigarettes, candy, and clothing. The acts started when the family lived in Rison, Arkansas. However, the family moved to East End, in Saline County, when DM was in the sixth grade. DM testified that appellant moved into their home, and during that time, appellant performed oral sex on DM many times in many rooms of that house. DM said the acts were too numerous to estimate, but that they ended when he was about age fourteen.

Appellant moved for directed verdict, asserting that the State had not proved that deviate sexual activity occurred because there was no corroboration of DM’s testimony. Appellant expands on this argument on appeal by citing to other rape convictions in which the appeals were affirmed, noting that those cases contained corroboration by physical evidence or other witness testimony to support the convictions. *See Peebles v. State*, 305 Ark. 338, 808 S.W.2d 331 (1991); *Harris v. State*, 15 Ark. App. 58, 689 S.W.2d 353 (1985).

In a rape case, there is sufficient evidence to support a conviction if the victim gives “a full and detailed accounting of the defendant's actions.” *White v. State*, 367 Ark. 595, 599, \_\_\_ S.W.3d \_\_\_ (2006). Uncorroborated testimony of a rape victim is sufficient evidence to support a conviction. *See Gillard v. State*, 366 Ark. 217, 234 S.W.3d 310 (2006). Inconsistencies in the rape victim’s testimony are matters of credibility that are left for the jury

to resolve. *See id.* The jury may accept or reject testimony as it sees fit. *See id.* When we consider the unequivocal testimony of the victim that he was repeatedly raped over the course of at least four years, which the jury was entitled to believe, we hold that there was sufficient evidence to sustain the guilty verdict.

The other point on appeal concerns appellant's cross-examination of DM. With regard to the standard of review for evidentiary rulings, trial courts have broad discretion and that a trial court's ruling on the admissibility of evidence will not be reversed absent an abuse of that discretion. *Travis v. State*, \_\_ Ark. \_\_, \_\_ S.W.3d \_\_ (Dec. 6, 2007). Appellant argues that the trial court abused its discretion by "denying the introduction of evidence relating to whether the victim was shot during an attempted robbery of a drug dealer under Rule 608 of the Arkansas Rules of Evidence." Appellant asserts he was deprived the opportunity to show that DM was untruthful. The State counters that appellant was in fact allowed to ask DM if he had told appellant that he had been shot, so he has no basis for an appeal on this point. We agree with the State.

To explain further, the cross-examination from the record shows that defense counsel asked DM, "Have you ever told Mr. Castleberry that you'd been shot?" The prosecutor entered a relevancy objection, which the trial court overruled. Defense counsel asked DM again, and DM responded, "No, sir." The next question was, "Did you ever tell him that you'd been shot because you were robbing a drug dealer?" This drew another State's objection, which was sustained as asked-and-answered.

Appellant was permitted to ask the question he desired to ask, but obtained a negative answer. We see no abuse of discretion by the trial court not allowing this to be asked again in another way. Moreover, appellant testified on his own behalf and did not make mention of having ever been told by DM that he had been shot. Appellant has failed to demonstrate any abuse of discretion or resulting prejudice.

Appellant's conviction for rape of DM is affirmed.

GLADWIN and HEFFLEY, JJ., agree.